

## REMARKS

Claims 19-27 have been amended. Claims 1-27 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

### Section 102(e) Rejection:

The Office Action rejected claims 1-5, 8-14, 17-23 and 26-27 under 35 U.S.C. § 102(e) as being anticipated by Peterson et al. (U.S. Patent Application Publication No. 2002/0188576) [hereinafter Peterson]. Applicants traverse this rejection and submit that the pending claims are not anticipated by Peterson for at least the following reasons.

Regarding claim 1, Peterson fails to teach or suggest a system including a computational resource; a plurality of applications configured to utilize the computational resource; a metering utility configured to measure utilization of the computational resource by a given one of the plurality of applications; and a cost model configured to allocate a first portion of a cost of the computational resource to the given application dependent upon the measured utilization of the computational resource by the given application.

Peterson is generally directed to “methods and systems of pricing of a session of computer network service usage and the like.” Peterson at para. [0001]. In particular, Peterson discloses that such a session cost is calculated by “totaling the charges for each tier entered during the session.” *Id.* at para. [0013]. Peterson discloses that tiers are divisions of an “on-line usage service session” according to units of time. *Id.* at para. [0014-15]. In operation, the system of Peterson determines how the duration of the session maps to the individual tiers, which are characterized as having incremental charges associated with entering the tier and usage rate charges for usage occurring during the tier. *Id.* at para. [0018-19]; Table 1; FIG. 1.

Peterson's disclosure is limited to discussion of "a session" and its duration. Peterson does not disclose any aspect of multiple applications configured to utilize a computational resource, or a metering utility that is configured to measure computational resource utilization that occurs by a given one of these multiple applications. To the contrary, Peterson considers utilization only in the aggregate, according to the time duration of a "session."

Peterson further fails to disclose allocating a portion of a cost of a computational resource to a given one of the multiple applications dependent upon the measured utilization of that computational resource by that given application. First, Peterson discloses in Table 1 an overall rate structure for session time, application of which results in charges to the session user according to the duration of the session. However, Peterson does not disclose that the rates charged in fact correspond to allocated portions of the cost of the utilized resource itself. That is, Peterson discusses rates that may be charged to a session user according to various time-based tiers of usage. But Peterson does not disclose that these rates derive from the cost of the session resources. In fact, the rate structure disclosed by Peterson appears to be arbitrary, lacking any described relationship to the costs of providing the resource.

Second, as noted above with respect to utilization, Peterson discloses only that session costs are determined in the aggregate. That is, Peterson describes determining costs for an entire session. Peterson does not disclose the relationship of the session to particular computational resources or applications that utilize such resources, and specifically does not disclose allocation of resource cost to a given one of several applications dependent upon that given application's resource utilization.

Similar arguments apply to similar independent claims 10 and 19. Thus, for at least the foregoing reasons, Applicants submit that Peterson clearly fails to anticipate the independent claims.

Regarding claim 5, Peterson further fails to disclose that the recited computational resource is one of a plurality of computational resources, and that the cost model is further configured to distribute at least a portion of a total cost of providing the plurality of computational resources among the plurality of computational resources, such that each of the computational resources bears a respective cost share of the at least a portion of the total cost. As noted above, Peterson fails to disclose any specific relationship between the cost of providing a computational resource and the charge associated with utilization of that resource. More particularly, Peterson fails to describe any aspect of the distribution of the costs of multiple computational resources among those resources in the manner required by claim 5. Thus, Applicants submit that Peterson fails to anticipate claim 5 or similar claims 14 and 21.

Regarding claim 8, Peterson further fails to disclose that the first portion of the recited cost is dependent upon a quality of service of the given application. Applicants note that Peterson fails to make any mention whatsoever of any aspect of this feature. Thus, Applicants submit that Peterson fails to anticipate claim 8 or similar claims 17 and 26.

### **Section 103(a) Rejection:**

The Office Action rejected claims 6, 7, 15, 16, 24 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Peterson in view of Agarwal et al. (U.S. Patent Application Publication No. 2005/0125314) [hereinafter Agarwal]. Applicants traverse this rejection for at least the reasons given above with respect to the independent claims, noting that Agarwal fails to remedy the deficiencies of Peterson with respect to those claims.

In regard to the rejections under both § 102(e) and § 103(a), Applicants further note that the rejections of various ones of the dependent claims are further unsupported by the cited references. However, as the rejections of the independent claims have been

shown to be unsupported, further discussion of the dependent claims is unnecessary at this time.

## CONCLUSION

Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Applicant(s) hereby petition for such extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-76200/RCK.

Respectfully submitted,

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